

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 8955 OF 2005**

Shamrao Dadu Huzare & ors.... Petitioner

versus

Ganpati Yeshwant Borate & ors. ... Respondents.

Shri S.G.Aney Sr. advocate with P.G. Karande and V.B. Jagdale for the petitioner.

Shri P.P.Kakade AGP for Respds. 2 to 4.

Mr. M.R.Suryawamshi for Respdt. No.1(a) to 1(c) and 1(e) to 1(g).

Shri S.V.Sadavarte for intervener in CAW 513/06.

**CORAM; V.G. PALSHIKAR &  
V.R. KINGAONKAR, JJ.**

**DATED; 10TH MARCH, 2006.**

**P.C:**

1. By this petition, the petitioner has challenged the order passed by the appellate authority i.e. Principal Secretary, Department of Revenue on 25-11-2005. By the said order the appeal/revision by the petitioner was rejected.

2. Under the policy of the State, certain lands were given to Co-operative Societies to make them cultivable and to put better use of such land. One such society was formed and the land was given to them. In spite of several years the society could not

cultivate the land and the lands were not properly utilised and therefore as per the scheme the society was wound up and the land was directed to be allotted to the members of the society. During this period, the society, which consists of 120 members, only 40 members remained and it is these persons who are in possession of the entire land, allotted to that society. The order directing re-allocation of the land to the members of the society who were previous owners was made in the year 1997. For last nine years almost all attempts on the part of the Government to resume possession of this land were objected by the petitioner. Same is the attempt by this petition.

3. The contention is (i) the Government has no power to resume the land once allotted under the policy or scheme of the Government and (ii) under the policy itself the resumption of possession is a formal resumption and no physical taking over of possession of land has taken place under the scheme covered by the scheme. There is therefore no need to take physical possession of the land. The proceedings as directed by the Secretary can go on. Investigations can be completed.

4. We are unable to accept both the contentions for the reason that the initial allotment of land itself is

done under the provisions of Maharashtra Land Revenue (Disposal of Government Lands) Rules of 1971 and this very rules specifically provided for the power in the government to resume the land allotted under the rules. In so far as the investigation of taking formal possession is concerned, it cannot be accepted for the reason that under the rules, the limitation prescribed for allotment of land is two hectors per member. Now there are 40 members and they are trying to keep in possession of land that was allotted to the society as such. Investigation as ordered by the revenue authorities in the circumstances is must and for such doing and future allotment the State must be in physical possession of the land, so that re-distribution can be legally and effectively made.

In such circumstances, in our opinion, no interference is possible. Hence petition is rejected.

5. Consequently, the Civil Application filed for intervention is also rejected.

6. The request for continuing the interim order is rejected as the process of taking physical possession is considerably delayed till now. Hence interim order is vacated.

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